

2004 Current Fiscal Year Report: Industry Functional Advisory Committee on Intellectual Property Rights for Trade Policy Matters

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1. Department or Agency

Department of Commerce

2. Fiscal Year

2004

3. Committee or Subcommittee

Industry Functional Advisory Committee on Intellectual Property Rights for Trade Policy Matters

3b. GSA

Committee No.

333

4. Is this New During Fiscal Year?

No

5. Current Charter

03/17/2004

6. Expected Renewal Date

03/17/2006

7. Expected Term Date

06/16/2004

8a. Was Terminated During Fiscal Year?

Yes

8b. Specific Termination Authority

19 U.S.C. 2155

8c. Actual Term Date

06/16/2004

9. Agency Recommendation for Next Fiscal Year

Terminate

10a. Legislation Req to Terminate?

No

10b. Legislation Pending?

11. Establishment Authority

Statutory (Congress Created)

12. Specific Establishment Authority

19 U.S.C. 2155

13. Effective Date

01/03/1975

14. Committee Type

Continuing

14c.

Presidential?

No

15. Description of Committee

National Policy Issue Advisory Board

16a. Total Number of Reports

4

16b. Report

Date

Report Title

03/12/2004

IFAC-3 Report on the U.S.-Australia FTA

03/12/2004

IFAC-3 Report on the U.S.-Central America FTA

04/06/2004

IFAC-3 Report on the U.S.-Morocco FTA

04/22/2004

IFAC-3 Report on the integration of the U.S.-Dominican Republic FTA into CAFTA

Number of Committee Reports Listed: 4

17a. Open 0 17b. Closed 7 17c. Partially Closed 0 Other Activities 0 17d. Total 7

Meetings and Dates

Purpose

The IFAC-3 meeting focused on committee positions regarding several intellectual property trade policy issues.

Start

End

10/14/2003 - 10/14/2003

The IFAC-3 met to discuss committee positions on several intellectual property rights trade policy issues.

12/09/2003 - 12/09/2003

The IFAC-3 met to discuss committee positions on several intellectual property rights trade policy issues.

02/17/2004 - 02/17/2004

The committee reviewed its draft reports on the U.S.-Australia and U.S.-Central America Free Trade Agreements.	03/05/2004 - 03/05/2004
Closed teleconference to deliberate on and approve the Committee reports on the US-Australia and US-CAFTA FTAs	03/11/2004 - 03/11/2004
The committee reviewed and finalized its draft reports on the U.S.- Morocco Free Trade Agreement.	04/02/2004 - 04/02/2004
The committee reviewed and finalized its draft report on the U.S.- Dominican Republic Free Trade Agreement.	04/21/2004 - 04/21/2004

Number of Committee Meetings Listed: 7

	Current FY	Next FY
18a(1). Personnel Pmts to Non-Federal Members	\$0.00	\$0.00
18a(2). Personnel Pmts to Federal Members	\$0.00	\$0.00
18a(3). Personnel Pmts to Federal Staff	\$3,032.00	\$0.00
18a(4). Personnel Pmts to Non-Member Consultants	\$0.00	\$0.00
18b(1). Travel and Per Diem to Non-Federal Members	\$0.00	\$0.00
18b(2). Travel and Per Diem to Federal Members	\$0.00	\$0.00
18b(3). Travel and Per Diem to Federal Staff	\$0.00	\$0.00
18b(4). Travel and Per Diem to Non-member Consultants	\$0.00	\$0.00
18c. Other(rents,user charges, graphics, printing, mail, etc.)	\$0.00	\$0.00
18d. Total	\$3,032.00	\$0.00
19. Federal Staff Support Years (FTE)	0.05	0.00

20a. How does the Committee accomplish its purpose?

In FY 2004, IFAC 3 played an active role in advising the U.S. Government on negotiating objectives and priorities for the WTO Doha Ministerial conference, the Free Trade of the Americas, implementation of the Free Trade Agreements (FTAs) for Singapore and Chile, and the World Intellectual Property Organization. IFAC 3 has provided advice on the intellectual property rights aspects of four FTAs during 2004, the US-Central America FTA (CAFTA), the US-Australia FTA, the US-Morocco FTA, and the integration of the US-Dominican Republic FTA into the CAFTA. IFAC 3 also provided advice on incomplete FTAs in 2004 - SACU FTA, Bahrain FTA, Andean FTA and Panama FTA. In addition, IFAC 3 channeled its advice on Special 301 activities. The Special 301 provisions of the Trade Act of 1974 require the USG to determine whether the policies and practices of foreign countries deny adequate and effective IPR protection. IFAC 3 also continued to monitor implementation and compliance of the World Trade Organization TRIPs Agreement, providing advice on the World Trade Organization TRIPs Council biotechnology reviews and geographical indications register system, and World Trade Organization dispute settlement cases. In addition, IFAC 3 advised the U.S. Government on strategies for legislative action including the GSP and Caribbean Basin Initiative. IFAC 3 advised the U.S. Government on negotiating objectives and strategies for U.S. negotiating objectives for WTO accessions.

20b. How does the Committee balance its membership?

IFAC 3 is reasonably well balanced between members who represent a broad spectrum of intellectual property industries, including entertainment and computer software industries. The Committee also has representatives from companies with trademark, pharmaceutical and biotechnology interests. IFAC 3 would benefit from additional expertise and representation from the wine industries.

20c. How frequent and relevant are the Committee Meetings?

The Committee meets approximately five times a year. However, the actual number of meetings is dictated by Government need for private sector advice. The U.S. Government will be engaged in multilateral and bilateral trade policy initiatives including the FTAA and FTA negotiations, Asia-Pacific Economic Cooperation, World Trade Organization implementation and accession by Russia, China, Saudi Arabia, and other countries, and enforcement of trade agreements. The advice the Government receives from the private sector through the advisory committees will be an on-going process and will be an intrinsic part of developing U.S. positions for all policy negotiations.

20d. Why can't the advice or information this committee provides be obtained elsewhere?

The Committee structure ensures a unique source of information to the Government. All members have security clearances and through a continuing dialogue with Government officials are made aware of Government trade policy at a level not otherwise available to the private sector. Because this Committee remains current in the broad spectrum of trade policy rather than a single facet--as would be the case in the absence of a committee structure--the private sector input from the Committee is more pertinent. The advisory committee program, legislatively mandated, is the single formal comprehensive consultative link between the U.S. Government and U.S. industry and has the responsibility to address all issues concerning trade policy.

20e. Why is it necessary to close and/or partially closed committee meetings?

The Industry Consultations Program was established by the Trade Act of 1974 and in accordance with the Federal Advisory Committee Act (FACA). Subsection 135(f) of the Trade Act provides that the ISACs shall be exempt from the provisions of the FACA relating to open meetings, public notice, public participation, and public availability of documents when it is determined that the proceedings would, if disclosed, seriously compromise the Government's negotiating objectives or bargaining positions regarding trade policy matters. ISAC meetings routinely involve these kinds of discussions. The United States Trade Representative (USTR) evaluates each meeting agenda and issues a Notice of Determination when it is necessary to close meetings.

21. Remarks

Designated Federal Officer

Kevin M. Ellis DFO

Committee Members	Start	End	Occupation	Member Designation
Bennett, Catherine	05/17/2002	06/16/2004	Pfizer	Special Government Employee (SGE) Member
Camp, Hope	03/17/2002	06/16/2004	Representing Eli Lilly and Company	Special Government Employee (SGE) Member
Finston, Susan	05/17/2002	06/16/2004	Pharmaceutical Research and Manufacturers of America	Special Government Employee (SGE) Member
Goldberg, Morton	03/17/2002	06/16/2004	Cowan, Liebowitz & Latman, P.C.	Special Government Employee (SGE) Member
Gorlin, Jacques	03/17/2002	06/16/2004	The Gorlin Group	Special Government Employee (SGE) Member
Hellwig, Frank	03/17/2002	06/16/2004	Senior Associate General Counsel, Anheuser-Busch Companies, Inc.	Special Government Employee (SGE) Member
Imler, Joseph	03/17/2002	06/16/2004	Director, Public Policy, Merck & Company, Inc.	Special Government Employee (SGE) Member
Irace, Mary	05/23/2003	06/16/2004	VP, Trade and Export Finance, Representing National Foreign Trade Council, Inc.	Special Government Employee (SGE) Member
Kushan, Jeffrey	03/17/2002	06/16/2004	Representing Biotechnology Industry Organization	Special Government Employee (SGE) Member
Perlmutter, Shira	04/24/2003	06/16/2004	VP and Associate General Counsel, Intellectual Property Policy, Time Warner, Inc.	Special Government Employee (SGE) Member
Smith, Eric	03/17/2002	06/16/2004	International Intellectual Property Alliance	Special Government Employee (SGE) Member
Trainer, Timothy	03/17/2002	06/16/2004	International AntiCounterfeiting Coalition	Special Government Employee (SGE) Member
Turkewitz, Neil	11/14/2003	06/16/2004	Executive VP, International, Recording Industry Association of America	Special Government Employee (SGE) Member
Wamsley, Herbert	03/17/2002	06/16/2004	Intellectual Property Owners Association	Special Government Employee (SGE) Member
Ying, Helga	05/28/2003	06/16/2004	Representing Levi Strauss and Company	Special Government Employee (SGE) Member

Number of Committee Members Listed: 15

Narrative Description

The Committee advises the Secretary and the USTR concerning the trade matters referred to in Sections 101, 102, and 124 of the Trade Act of 1974, as amended; with respect to the operation of any trade agreement once entered into; and with respect to other matters arising in connection with the development, implementation, and administration of the trade policy of the United States including those matters referred to in Reorganization Plan Number 3 of 1979 and Executive Order 12188, and the priorities for actions thereunder. In particular, the Committee provides detailed policy and technical advice, information, and recommendations to the Secretary and the USTR regarding trade

barriers and implementation of trade agreements negotiated under Sections 101 or 102 of the Trade Act of 1974, as amended, and Sections 1102 and 1103 of the 1988 Trade Act, which affect the products of its sector; and performs such other advisory functions relevant to U.S. trade policy as may be requested by the Secretary and the USTR or their designees.

What are the most significant program outcomes associated with this committee?

Checked if Applies

- | | |
|---|-------------------------------------|
| Improvements to health or safety | <input type="checkbox"/> |
| Trust in government | <input checked="" type="checkbox"/> |
| Major policy changes | <input checked="" type="checkbox"/> |
| Advance in scientific research | <input type="checkbox"/> |
| Effective grant making | <input type="checkbox"/> |
| Improved service delivery | <input type="checkbox"/> |
| Increased customer satisfaction | <input type="checkbox"/> |
| Implementation of laws or regulatory requirements | <input type="checkbox"/> |
| Other | <input type="checkbox"/> |

Outcome Comments

Effective in formulating the trade policy objectives of the United States.

What are the cost savings associated with this committee?

Checked if Applies

- | | |
|----------------------------|-------------------------------------|
| None | <input checked="" type="checkbox"/> |
| Unable to Determine | <input type="checkbox"/> |
| Under \$100,000 | <input type="checkbox"/> |
| \$100,000 - \$500,000 | <input type="checkbox"/> |
| \$500,001 - \$1,000,000 | <input type="checkbox"/> |
| \$1,000,001 - \$5,000,000 | <input type="checkbox"/> |
| \$5,000,001 - \$10,000,000 | <input type="checkbox"/> |
| Over \$10,000,000 | <input type="checkbox"/> |
| Cost Savings Other | <input type="checkbox"/> |

Cost Savings Comments

NA

What is the approximate Number of recommendations produced by this committee for the life of the committee?

0

Number of Recommendations Comments

No measurable calculation. The IFAC 3 members presented their respective organization's views on priority issues on multilateral, bilateral and regional trade negotiations. Their advice and recommendations are mostly rendered orally during meetings while U.S. Government Officials are present. During this fiscal year the IFAC members presented advice and recommendations on priority issues on the various free trade agreements.

What is the approximate Percentage of these recommendations that have been or will be Fully implemented by the agency?

0%

% of Recommendations Fully Implemented Comments

No measurable calculation as section 135 of the Trade Act of 1974, as amended, does not bind the USTR and Secretary of Commerce to the advice submitted by the Committee.

What is the approximate Percentage of these recommendations that have been or will be Partially implemented by the agency?

0%

% of Recommendations Partially Implemented Comments

No measurable calculation as section 135 of the Trade Act of 1974, as amended, does not bind the USTR and Secretary of Commerce to the advice submitted by the Committee.

Does the agency provide the committee with feedback regarding actions taken to implement recommendations or advice offered?

Yes ☒ No ☐ Not Applicable ☐

Agency Feedback Comments

Feedback is primarily rendered orally during meetings while U.S. Government Officials are present. Formal written advice addressed to the Secretary of Commerce (and/or jointly to the USTR), or their designees, is reviewed by the Secretary's policy staff and tasked to appropriate ITA unit to prepare a draft response. Commerce's internal procedures require that all responses for Secretarial signature (and/or joint signature with USTR) go through a concurrence process which ensures that the appropriate level Commerce officials are seeing the advice and have an opportunity for comment. All formal

responses must be cleared by the Under Secretary of Commerce for International Trade prior to Secretary's signature, which ensures that the committee's advice is weighed and considered.

What other actions has the agency taken as a result of the committee's advice or recommendation?

	Checked if Applies
Reorganized Priorities	<input checked="" type="checkbox"/>
Reallocated resources	<input type="checkbox"/>
Issued new regulation	<input type="checkbox"/>
Proposed legislation	<input type="checkbox"/>
Approved grants or other payments	<input type="checkbox"/>
Other	<input checked="" type="checkbox"/>

Action Comments

Issued changes to text of trade agreements.

Is the Committee engaged in the review of applications for grants?

No

Grant Review Comments

NA

How is access provided to the information for the Committee's documentation?

	Checked if Applies
Contact DFO	<input type="checkbox"/>
Online Agency Web Site	<input type="checkbox"/>
Online Committee Web Site	<input type="checkbox"/>
Online GSA FACA Web Site	<input type="checkbox"/>
Publications	<input type="checkbox"/>
Other	<input type="checkbox"/>

Access Comments

NA